

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHAEL BARNHART,

Plaintiff,

Hon. Janet T. Neff

v.

Case No. 1:17-cv-302

NATIONSTAR MORTGAGE LLC, et al.,

Defendants.

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REPORT AND RECOMMENDATION

Plaintiff initiated the present action on April 4, 2017, against Nationstar Mortgage and ten (10) unidentified Doe defendants. Pursuant to 28 U.S.C. § 636(b)(1)(B), the undersigned recommends that Plaintiff's claims against these unidentified Doe defendants be **dismissed for failure to timely effect service**.

Federal Rule of Civil Procedure 4(c) indicates that "[a] summons must be served together with a copy of the complaint." The time frame within which service must be effected is articulated in Rule 4(m), which provides that if service of the summons and complaint is not made upon a defendant within 90 days after the filing of the complaint, "the court - on motion or on its own after notice to the plaintiff - must dismiss the action without prejudice against that defendant or order that service be made within a specified time." If the plaintiff demonstrates good cause for such failure, however, the court "must extend the time for service for an appropriate period." Fed. R. Civ. P. 4(m). Plaintiff has not requested an extension of the deadline by which to timely effect service which has now long since passed. Considering Plaintiff's lack of diligence, the undersigned

recommends that Plaintiff's claims against the ten (10) unidentified Doe defendants be dismissed for failure to timely effect service.

CONCLUSION

For the reasons articulated herein, the undersigned recommends that Plaintiff's claims against the ten (10) unidentified Doe defendants be **dismissed for failure to timely effect service**. The undersigned further recommends that appeal of this matter would not be taken in good faith. *See McGore v. Wigglesworth*, 114 F.3d 601, 611 (6th Cir. 1997); 28 U.S.C. § 1915(a)(3).

OBJECTIONS to this Report and Recommendation must be filed with the Clerk of Court within fourteen (14) days of the date of service of this notice. 28 U.S.C. § 636(b)(1)(C). Failure to file objections within the specified time waives the right to appeal the District Court's order. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir.1981).

Respectfully submitted,

Date: September 6, 2017

/s/ Ellen S. Carmody
ELLEN S. CARMODY
United States Magistrate Judge